IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 301 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI
and
Hon'ble MR.JUSTICE H.R.SHELAT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

NARANJI SHANKARJI THAKARDA

Versus

STATE OF GUJARAT

Appearance:

MR MS DESAI for Petitioner

Mr.K.P. Rawal, APP for Respondent No. 1

CORAM : MR.JUSTICE M.H.KADRI
and
MR.JUSTICE H.R.SHELAT

Date of decision: 17/01/2001

C.A.V. Judgment: (Per : MR.JUSTICE M.H.KADRI)

1. The appellant has challenged the judgment and order dated April 12, 1990, passed by the learned Additional Sessions Judge, Sabarkantha, at Himmatnagar, rendered in Sessions Case No.91 of 1989, wherein, the appellant came to be convicted under Section 302 Indian Penal code and sentenced to undergo R.I. for life.

2. Briefly stated, the prosecution case against the appellant is as under: The appellant was married with Samuben (since deceased) before nine years of the date of the incident, i.e. September 19, 1989. It is the prosecution case that, since the deceased had not given birth to a child, she was mentally and physically tortured by the appellant. Ultimately, on September 1, 1989, the appellant poured kerosene on her and set her on fire by lighting a match-stick. The deceased was shifted to Idar Referral Hospital where she was treated and, thereafter, she was shifted to the Civil Hospital, at Himmatnagar. At the Himmatnagar Civil Hospital, the police head-constable, Arjunsinh Lalsinh, P.W.5, recorded statement of the deceased and forwarded it to the Himmatnagar Town Police Station, which was in turn sent to Jadar Police Station where the offence was registered against the appellant. P.W.7, PSI, M.N. Sunesara, carried on investigation and, on completion of the investigation, submitted a chargesheet against the appellant in the Court of Judicial Magistrate, First Class, Idar, for the offence punishable under Section 302 Indian Penal Code. The said chargesheet was registered as Criminal Case No.1269 of 1989. As the offence under Section 302 Indian Penal Code is exclusively triable by the Court of Sessions, the learned Judicial Magistrate, First Class, Idar, committed the case to the Sessions Court, Sabarkantha, at Himmatnagar, where it came to be numbered as Sessions Case No.91 of 1989.

3. Charge Exh.4 was framed against the appellant for the offence under Section 302 Indian Penal Code. The appellant pleaded not guilty and claimed to be tried. In order to prove the charge against the appellant, the prosecution examined (1) P.W.1, Exh.17, Chaturji Kodarji, brother of deceased Samuben; (2) P.W.2, Exh.18, Somaji Rajaji, maternal uncle of deceased Samuben; (3) P.W.3, Exh.19, Panch Bhikalal Jugatram; (4) P.W.4, Exh.21, Panch Somaji Phulaji; (5) P.W.5, Exh.22, Police Head Constable, Arjunsinh Lalsinh who recorded statement of deceased Samuben; (6) P.W.6, Exh.26, Police Head Constable Vajusinh Gobarsinh, who recorded first information report at Jadar Police Station; (7) P.W.7, Exh.27, Investigating Officer, PSI, M.N. Sunesara; and (8) P.W.8, Exh.32, Dr. Vijaykumar S. Rao, who performed post-mortem of the dead

body of the deceased. The prosecution also produced documentary evidence consisting of inquest panchanama, panchanama of scene of offence, report of FSL, post-mortem notes, map showing place of the incident, complaint lodged by Chaturji Kodarji, statement of deceased Samuben Exh.23, yadi Exh.24 sent to the Medical Officer, Idar Referral Hospital, yadi Exh.25 sent to the Executive Magistrate, to prove the case against the appellant. After recording of evidence of prosecution witnesses was over, further statement of the appellant was recorded under Section 313 of the Code of Criminal Procedure, 1973. During recording of further statement, the appellant submitted written reply at Exh.34. The learned Additional Sessions Judge, on appreciation of evidence, convicted the appellant for offence under Section 302 Indian Penal Code and sentenced him to R.I. for life , which has given rise to filing of this appeal by the appellant.

4. Learned counsel, Mr. M.S. Desai, for the appellant and learned Additional Public Prosecutor, Mr. K.P. Rawal, have taken us through the entire record and proceedings of the appeal.

5. The learned counsel for the appellant submitted that the prosecution had projected one-sided story of the incident and had suppressed the evidence which was in favour of the appellant. The learned counsel for the appellant submitted that, after the incident, yadi Exh.29 was sent to the Executive Magistrate requesting him to record dying declaration of Samuben, who was admitted in the Idar Referral Hospital. The learned counsel for the appellant submitted that after receipt of the yadi, the Executive Magistrate had recorded dying declaration of deceased Samuben. The dying declaration recorded by the Executive Magistrate was produced at the trial court but could not be proved and exhibited because the Executive Magistrate who had recorded the dying declaration was deliberately not examined. The learned counsel for the appellant therefore submitted that adverse inference requires to be drawn against the prosecution as it had suppressed the most important evidence, i.e. dying declaration of the deceased Samuben recorded by the Executive Magistrate, which was first in point of time, and which indicates that the deceased sustained accidental burn injuries. In this connection, the learned counsel for the appellant also drew our attention to the closing purshis Exh.33 submitted by the learned Additional Public Prosecutor on March 22, 1990, before the learned Additional Sessions Judge. The learned advocate who appeared for the appellant in the Sessions

Court had made following endorsement on the purshis.
"Objected. The prosecution intentionally wants to drop natural witnesses including Executive Magistrate who recorded dying declaration of the deceased. The prosecution intends to project only one sided picture of the incident by intentionally suppressing the oral as well as documentary evidence supporting defence version of accidental burns."
The learned counsel for the appellant submitted that, if the Executive Magistrate was examined and if the dying declaration recorded by him was admitted in evidence before the Sessions Court, then the real story about accidental burns sustained by the deceased would have come on the record. The learned counsel for the appellant stressed that complainant, Chaturji Kodarji, and maternal uncle, Somaji Raji, in collusion with the investigating agency, had got recorded the so-called dying declaration of the deceased and falsely involved the appellant by making a concocted story that the deceased had sustained burn injuries due to pouring kerosene on her by the appellant. The learned counsel for the appellant submitted that, as the prosecution has suppressed the genesis of occurrence of the incident, the benefit of doubt should be given to the appellant and the appeal should be allowed.

6. Learned Additional Public Prosecutor, Mr. K.P. Rawal, has submitted that the deceased had lodged complaint before P.W.5, Arjunsinh Lalsinh, which had become a dying declaration after death of the deceased. In the said dying declaration, the deceased had given the true version of the incident, wherein, she had stated that the appellant had poured kerosene on her and set her on fire by lighting a match stick. The learned Additional Public Prosecutor has submitted that, if the dying declaration even though recorded by a police officer is trustworthy, then the conviction recorded by the Sessions Court deserves to be confirmed and the appeal may be dismissed. The learned Additional Public Prosecutor has further submitted that the deceased had made oral statement before P.W.1, Chaturji Kodarji and P.W.2, Somaji Rajaji which was supported by the dying declaration Exh.23 recorded by P.W.5, Arjunsinh Lalsinh, Exh.22, implicating the appellant with the commission of crime. The learned Additional Public Prosecutor has further submitted that the learned Additional Sessions Judge, while convicting the appellant for the offence under Section 302 Indian Penal Code, had given cogent and convincing reasons and, therefore, the appeal deserves to be dismissed.

7. A person on the verge of death is not likely to tell lies or to concoct a case so as to implicate an innocent person yet the Court has to be on guard against the statement of the deceased being a result of either tutoring, prompting or a produce of his imagination. The Court must be satisfied that the deceased was in a fit state of mind to make the statement after the deceased has a clear opportunity to observe and identify his assailants and that he was making the statement without any influence or ancour. Once the Court is satisfied that the dying declaration is true and voluntary it can be sufficient to found the conviction even without any further corroboration.

8. The law on the subject has been clearly and explicitly enunciated in Khushal Rao vs. State of Bombay, AIR 1958 Supreme Cort 22, where the Court observed as follows:

"On a review of the relevant provisions of the Evidence Act and of the decided cases, it is clear that

(1) that it cannot be laid down as an absolute rule of law that a dying declaration cannot form the sole basis of conviction unless it is corroborated;
(2) that each case must be determined on its own facts keeping in view the circumstances in which the dying declaration was made.
(3) that it cannot be laid down as a general proposition that a dying declaration is a weaker kind of evidence than other pieces of evidence;
(4) That a dying declaration stands on the same footing as another piece of evidence and has to be judged in the light of surrounding circumstances and with reference to the principles governing the weighing of evidence;
(5) that a dying declaration which has been recorded by a competent Magistrate in the proper manner, that is to say, in the form of questions and answers and, as far as practicable, in the words of the maker of the declaration, stands on a much higher footing than a dying declaration which depends upon oral testimony which may suffer from all the infirmities of human memory and human character;

and

(6) that in order to test the reliability of dying declaration, the Court has to keep in view the circumstances like the opportunity of the dying man for observation, for example, whether there

> was sufficient light if the crime was committed at night; whether the capacity of the man to remember the facts stated had not been impaired at the time he was making the statement, by circumstances beyond his control, that the statement has been consistent throughout if he had several opportunities of making a dying declaration apart from the official record of it; and that the statement had been made at the earliest opportunity and was not the result of tutoring by interested parties. Hence, in order to pass the test of reliability, a dying declaration has to be subjected to a very scrutiny, keeping in view the fact that the statement has been made in the absence of the accused who had no opportunity of testing the veracity of the statement by cross examination."

9. The dying declaration recorded by P.W.5, Arjunsinh Lalsinh, Police Head Constable, which was produced at Exh.23, implicates the appellant with the commission of crime, wherein the deceased stated before P.W.5 that she had sustained injuries as the appellant had poured kerosene on her body and lighted by a match stick, as a result of which, she had sustained burn injuries. The Apex Court, in various decisions, has ruled that, if the dying declaration recorded by a police officer inspires confidence, then the conviction can be based on such dying declaration, but, at the same time, the Apex Court has also cautioned the Courts that, before such dying declaration is relied upon, the Courts should bear in mind that the police officers are keenly interested in achieving success of their efforts and therefore it is not prudent to base conviction on a declaration made to an Investigating Officer. In the case of Munnu Raja And Another vs. The State of Madhya Pradesh, reported in AIR 1976 Supreme Court page 2199, the Supreme Court has ruled that the Investigating Officers are naturally interested in the success of the investigation and the practice of the Investigating Officer himself recording a dying declaration during the course of investigation ought not to be encouraged.

10. Keeping in mind the above principles, let us examine the prosecution case. After the deceased sustained burn injuries, she was referred to Idar Referral Hospital by a yadi which was produced at Exh.28. In the said yadi, it was stated that the deceased had sustained burn injuries while she was cooking and she was to be admitted in Idar Referral Hospital. While the

deceased was under treatment at Idar Referral Hospital, yadi was sent to the Executive Magistrate on September 2, 1989 by Jadar Police Station requesting him to record a dying declaration of the deceased. On receiving the yadi, the Executive Magistrate had recorded the dying declaration of deceased Samuben at Idar Referral Hospital on September 3, 1989 between 1 a.m. and 1.30 a.m. A copy of the dying declaration recorded by the Executive Magistrate was produced by P.W.7, Investigating Officer, Mr. Sonesara, during his cross examination. The witness, in his cross examination, admitted that, in the dying declaration recorded by the Executive Magistrate, the deceased had declared that she had sustained accidental burn injuries while she was cooking food in her residence.

11. After the deceased was removed to the Himmatnagar Civil Hospital, P.W.5, Arjunsinh Lalsinh, who was at the relevant time serving as Police Head Constable in Himmatnagar Town Police Station, had recorded statement of deceased Samuben at the Civil Hospital, Himmatnagar. She disclosed in the statement that on September 1, 1989, while she was sitting in her house, the appellant came and poured kerosene on her and set her on fire by lighting a match stick. It was further stated that, when she raised cries, Shantaben Somaji, who was her sister-in-law, had come there and had thrown water on her body. According to the evidence of P.W.7, Investigating Officer, Mr. Sunesara, the deceased was alive when she was removed to Idar Referral Hospital and then to the Civil Hospital at Himmatnagar and that the deceased was in a serious condition when she was removed to the Civil Hospital, Ahmedabad. It was deposed by the Investigating Officer that, in the Civil Hospital, Ahmedabad, he had recorded statement of deceased Samuben which also indicated that the appellant had poured kerosene on her and set her on fire. During his deposition, the Investigating Officer admitted that even though the Executive Magistrate was available in Ahmedabad City, he had not made any effort to send a yadi to the Executive Magistrate calling him to record a dying declaration of deceased Samuben.

12. The submission of the learned counsel for the appellant that the prosecution has tried to project one sided story which suits the version of the prosecution, deserves to be accepted. In the dying declaration, Exh.23, which was recorded by P.W.5, Arjunsinh Lalsinh, the deceased stated that, after she sustained the burn injuries, she had raised cries, and, on hearing her

cries, her sister-in-law, Shantaben, and one Dhuliben residing nearby, tried to put out the fire with water splashed on the deceased. From the above statement, it becomes clear that Shantaben and Bhuriben were the first persons who approached the deceased immediately after the deceased sustained the burn injuries. It was also brought on record during deposition of the Investigating Officer that the statements of Shantaben and Dhuliben were recorded during the investigation and in the charge-sheet their names were shown as witnesses, but the prosecution had deliberately not examined these two witnesses as to suppress the real picture of the incident.

13. In the case of Himatsinh Bhaijibhai vs. Manharsinh Abhesinh and others, reported in 1979 (XX) GLR p.23, the Division Bench of this Court has ruled that a public prosecutor holds the statutory office and he owes a heavy responsibility when he conducts a sessions trial against any citizen who is more particularly charged with the offence of murder. The public prosecutor is supposed to use his discretion of dropping of witnesses, but the said discretion should not be used so as to suppress the real truth and to secure an order of conviction at the cost of fairness. In the present case, the public prosecutor had deliberately not examined witness Shantaben at the trial who was the first person to approach the deceased when she sustained the burn injuries. When the public prosecutor had passed purshis Exh.33 of closing evidence of the prosecution, the learned advocate for the appellant had raised serious objection against non-examination of the Executive Magistrate who had recorded dying declaration of the deceased at Idar Referral Hospital and also non-examination of witness Shantaben even though it was most essential to throw light on the true picture as to how the deceased sustained burn injuries. Even if the learned Public Prosecutor had not examined the Executive Magistrate and the said witness, Shantaben, it was duty of the Court to examine the Executive Magistrate and witness, Shantaben, as court witnesses. In our opinion, by not examining the Executive Magistrate and witness, Shantaben, the prosecution had suppressed real genesis of occurrence of the incident. Therefore, in our opinion, an adverse inference deserves to be drawn against the prosecution for not examining the independent witnesses who could have thrown light on the real occurrence of the incident as to how the deceased had sustained burn injuries. As stated earlier, the Investigating Officer, P.W.7, Mr. Sunesara, in paragraph 5 of his cross examination, admitted that the Executive Magistrate had

recorded dying declaration of the deceased wherein she had stated that the deceased had sustained burn injuries while she was cooking. Thus, there was a dying declaration recorded by an independent witness, namely, Executive Magistrate, which was not brought on record of the case. This raises a serious doubt in our mind that the deceased had sustained burn injuries due to pouring of kerosene by the appellant.

14. The statement of the deceased recorded by P.W.5, Police Head Constable, Arjunsinh Lalsinh, which had become a dying declaration on her death, is produced on record at Exh.23. It is pertinent to note that in the said dying declaration recorded by P.W.5, Arjunsinh, at Himmatnagar Civil Hospital on September 3, 1989, no time of recording of the said dying declaration has been mentioned. No safeguards of recording of dying declaration of the deceased were taken by P.W.5, Arjunsinh. There is no evidence in the nature of certificate issued by the Doctor that the deceased was in a fit state of mind at the time of giving statement before P.W.5, Arjunsinh. There is no principle of law that dying declaration recorded by a police officer is not admissible and no conviction can be recorded on the basis of the said dying declaration. It was, therefore, incumbent upon P.W.5, Arjunsinh, to obtain an endorsement of the Doctor who was treating the deceased at the Himmatnagar Civil Hospital to satisfy the Court that the deceased was conscious and in a fit state of mind so as go give her statement. The evidence of P.W.5, Arjunsinh, in our opinion, does not inspire confidence that, before recording of the statement, he had ascertained from the Doctor, who was treating the deceased at the Himmatnagar Civil Hospital, that the deceased was in a fit state of mind to give statement. As noted earlier, neither the time of recording of statement was mentioned nor any endorsement of the Doctor who was treating the deceased at the Himmatnagar Civil Hospital was obtained by P.W.5, Arjunsinh at the time of recording statement of the deceased. The said statement, which had become dying declaration on death of the deceased, in our opinion, cannot be relied upon so as to record conviction of the appellant. It is also worthwhile to note that Himmatnagar is District town where presence of the Executive Magistrate could have been secured to record dying declaration of the deceased. No such attempt was made by P.W.5, Arjunsinh, to secure presence of the Executive Magistrate for recording statement of the deceased. In such circumstances, therefore, the dying declaration in the nature of complaint Exh.23 becomes very doubtful that the deceased had given such

declaration before P.W.5, Arjunsinh, in a fit state of mind. In our opinion, the learned Sessions Judge had erred in placing reliance on the said dying declaration Exh.23 to record conviction of the appellant for serious offence of murder.

15. From the Civil Hospital, Himmatnagar, the deceased was removed to the Civil Hospital, Ahmedabad. According to the evidence of P.W.7, PSI, Sunesara, after the deceased was removed to the Civil Hospital, Ahmedabad, he had gone to the Civil Hospital, Ahmedabad, and had recorded statement of the deceased, in which also, she had narrated occurrence of the incident by stating that the appellant had poured kerosene on her and by lighting a match-stick had set her on fire. In cross examination, PSI, Sunesara, admitted that, before recording dying declaration, it is incumbent to contact the Doctor at the Hospital to ascertain whether the deceased was conscious and in a fit state of mind. In spite of this admission by PSI, Sunesara, no endorsement of the Doctor was obtained before recording statement of the deceased at the Civil Hospital, Ahmedabad. PSI, Sunesara, was searchingly cross examined for not obtaining endorsement of the Doctor on the so-called dying declaration of the deceased, but he could not give any explanation for not obtaining endorsement of the Doctor to the effect that the deceased was conscious and in a fit state of mind to give her statement. It is surprising to note that, when serious charge of murder was levelled against the appellant, the prosecution had not produced medical case papers with regard to treatment given to the deceased at the Idar Referral Hospital, at the Civil Hospital, Himmatnagar, and at the Civil Hospital, Ahmedabad. The medical case papers of the abovestated Hospitals were more important evidence to ascertain whether the deceased was conscious and was in a fit state of mind to give statement before the police officer. Not a single Medical Officer, who treated the deceased at the Idar Referral Hospital, at the Civil Hospital, Himmatnagar, and at the Civil Hospital, Ahmedabad, was examined to prove the physical and mental condition of the deceased. In view of the non-production of medical case papers and non-examination of the Doctors of the above-stated Hospitals, in our opinion, it casts serious doubt about the fact that the deceased had given dying declaration before the police officers to the effect that the appellant had caused her murder by pouring kerosene on her. The earlier version, which has come on record, suggests that the deceased had sustained burn injuries due to an accident while she was cooking food in her residence. In such circumstance, the dying

declarations alleged to have been recorded by the police officers, namely, P.W.5, Arjunsinh and P.W.7, PSI, Sunesara, become very doubtful and, in our opinion, no conviction can be based on such dying declarations which have not been supported by endorsement of the Doctors with regard to mental and physical condition of the deceased at the time of recording of dying declarations.

16. The learned Additional Public Prosecutor, Mr. K.P. Rawal, has submitted that it is not necessary in all the cases to obtain endorsement of a Doctor and for not obtaining endorsement of the Doctor in the dying declaration, the said declaration cannot be rejected on that ground alone. In our opinion, in a criminal trial, every case is to be decided on the facts of each case. In the background in which the said declarations were recorded by the police officers, it was incumbent upon the said officers to obtain endorsement of the Doctor with regard to consciousness and fit state of mind of the deceased. By not producing the medical case papers of the deceased of three hospitals and by not examining the Doctors who had treated the deceased at the above three hospitals, in our opinion, an adverse inference deserves to be drawn against the prosecution for suppressing the real version of the incident, namely, as to whether the deceased died due to burn injuries caused by the appellant or she died due to accidental injuries sustained by her while she was cooking food in her residence.

17. The oral testimony of P.W.1, Chaturji Kodarji, brother of the deceased, also, in our opinion, does not establish that the appellant had a motive to commit murder of the deceased because she did not give birth to a child. According to the evidence of P.W.1, Chaturji Kodarji, the deceased was meted out with cruelty by the appellant as she was a barren lady. The version of the prosecution about the cruel treatment to the deceased is also not trustworthy and reliable. On the contrary, the oral evidence disclosed that the deceased had given birth to a child who expired after few days of the delivery. The appellant, at the time of recording has further statement, had submitted a written reply at Exh.34. In the said reply, he had stated that when the deceased had sustained accidental burn injuries, he had gone to his agricultural field and his mother had gone to a dairy to supply milk. In the said reply, the appellant stated that the deceased had sustained burn injuries due to the accident when she was cooking food. It was stated that the deceased had put-on a polyester saree which had caught fire and the said fire was extinguished by

Shantaben who had thrown water on the deceased. The appellant further stated that Shantaben enquired from the deceased as to how she had sustained burn injuries, and the deceased had told Shantaben that she had sustained burn injuries due to the accident which occurred while she was cooking. In view of the above facts emerging from the record, in our opinion, when there are two sets of evidence emerging from the evidence led by the prosecution, the one which goes in favour of the appellant should be accepted. As noted earlier, the first version of the incident was that the deceased had sustained accidental injuries while she was cooking food in her residence. In our opinion, the Investigating Agency had tried to make out a case of homicidal death by recording dying declarations which were not supported by any medical evidence and had tried to project one-sided story of the deceased having sustained burn injuries due to pouring of kerosene by the appellant. In our opinion, the deceased had married with the appellant prior to nine years of the incident. There was no motive to commit murder of the deceased by the appellant. The reasoning that the appellant wanted to do away with the deceased as she was not able to give birth to a child, is also baseless. The record indicated that the deceased had given birth to a child before a year of the date of the incident and the said child died after 10 days of the birth.

18. A conviction can be recorded solely on the basis of dying declaration provided it inspires confidence and the Court is satisfied that the deceased at the time of recording of the declaration was conscious and in a fit state of mind. In our opinion, the evidence led by the prosecution did not establish that the deceased was conscious and in a fit state of mind to give such declaration before the Police Officer. In absence of any endorsement of the Doctors who were present at the Civil Hospital, Himmatnagar, and at the Civil Hospital, Ahmedabad, in our opinion, no reliance can be placed on such dying declarations, which are recorded by the police officers without obtaining endorsement of the Doctors. As the prosecution had not examined the Executive Magistrate who had recorded the first dying declaration of the deceased at Idar Referral Hospital, an adverse inference requires to be raised against the prosecution for suppressing the real picture of occurrence of the incident. In view of two versions about the manner in which the deceased had sustained injuries, namely, whether it was accidental injuries or burn injuries caused by the appellant by pouring kerosene on her, the benefit of doubt must be given in favour of the

appellant.

19. As a result of foregoing discussion, we are of the opinion that the prosecution had failed to prove beyond reasonable doubt that the appellant had poured kerosene on the deceased and by lighting a match stick had set her on fire and as a result of sustaining burn injuries the deceased expired on September 13, 1989 at 21-00 hrs. at the Civil Hospital, Ahmedabad. Therefore, the conviction of the appellant recorded by the learned Additional Sessions Judge, Sabarkantha, at Himmatnagar, for causing death of the deceased under Section 302 of the Indian Penal Code deserves to be set aside. Consequently, the sentence of R.I. for life imposed by the learned Additional Sessions Judge, Sabarkantha, at Himmatnagar, on the appellant for the offence punishable under Section 302 of the Indian Penal Code, also deserves to be quashed and set aside. It is reported that the appellant is in custody since the date of his arrest, i.e. from September 5, 1989.

20. In the result, the appeal is allowed. The conviction recorded and the sentence imposed on the appellant to undergo R.I. for life, by the learned Additional Sessions Judge, Sabarkantha, at Himmatnagar, vide judgment and order dated April 12, 1990, rendered in Sessions Case No.91 of 1989, are quashed and set aside. The appellant is ordered to be set at liberty forthwith if his presence is not required in connection with any other case. The muddamal be destroyed in terms of the direction given by the learned Additional Sessions Judge in the impugned judgment.

January 17_, 2001 (M.H. Kadri, J.)

(H.R.Shelat, J.)
(swamy)